

**IOWA RACING AND GAMING COMMISSION
MINUTES
JANUARY 22, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, January 22, 2015 at Stoney Creek Inn and Conference Center, in Johnston. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair and members Dolores Mertz and Kris Kramer. Commissioner Rich Arnold participated via speaker phone.

Chair Lamberti called the meeting to order at 8:30 AM, and called on Commissioner Heinrich who expressed his appreciation for the concern and support he received from the industry at the time of his wife's death.

Chair Lamberti moved to the approval of the agenda, and noted the following revisions: Under contracts, Item 6(K)6 is removed, and Item 10C will be deferred. He requested a motion to approve the agenda as amended. Commissioner Mertz so moved. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the approval of the minutes from the November 5th and 13th Commission meetings. Hearing no discussion, he requested a motion. Commissioner Kramer moved to approve the minutes as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to announcements, and called on Brian Ohorilko, Administrator of IRGC. Mr. Ohorilko provided the following information on upcoming Commission meetings:

- February 2015 – No Meeting
- March 5, 2015 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by February 19, 2015)
- April 16, 2015 – Mid America Center, Council Bluffs, IA (Submissions due by April 1, 2015)
- May 2015 – No Meeting
- June 4, 2015 – Hard Rock Hotel & Casino, Sioux City, IA (Submissions due by May 20, 2015)

Chair Lamberti moved to the rules before the Commission for final adoption. Mr. Ohorilko advised the rule packet is the same as the one noticed at the November Commission meeting. He noted the Commission did receive one public comment regarding the network risk assessment rule (Item 4). Mr. Ohorilko stated staff took the opportunity to address one of the items in the comment and modified the dates associated with the testing; that was the only change made to the rules between the November submission and this submission. Mr. Ohorilko requested the final adoption of the rules as submitted.

Hearing no comments or questions concerning the rules, Chair Lamberti requested a motion. Commissioner Mertz moved to final adopt the rules as amended. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the shelf application for approval of debt financing submitted by Pinnacle Entertainment, Inc. (Pinnacle), the parent company for Ameristar Casino Council Bluffs, Inc. (Ameristar). Doug Gross, legal counsel, noted the Commission has adopted rules which allow for debt financing to be approved on a shelf basis as long as the organization is listed on the New York Stock Exchange or has publicly traded debt securities. He stated Pinnacle meets those requirements. He advised that Pinnacle had submitted a shelf financing package for the acquisition of Ameristar; that has been completed. The shelf financing before the Commission is for \$500 million of convertible debt securities to pay down existing debt. Mr. Gross requested the Commission's approval.

Hearing no comments or questions concerning the shelf financing, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the shelf application for approval of debt financing as submitted by Pinnacle Entertainment, Inc. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract portion of the agenda and called on Ameristar. Monty Terhune, General Manager, presented the following contracts for Commission approval:

- Interline Brands – Cleaning Equipment, Supplies and Services
- Cintas – Purchase New Uniforms for Casino Staff
- Scavusso's, Inc. – Food Provider

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by Ameristar. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on IOC Black Hawk County, Inc. d/b/a Isle Casino Hotel Waterloo (IOC Waterloo). Bari Richter, General Manager, presented the following contracts for Commission approval:

- Newton Manufacturing Company – Marketing Promotional Items
- Witham Auto Center – Car Dealership for Marketing Promotional Items
- Home Depot – Maintenance and Housekeeping Supplies
- Jeff Hibbs – Beef Vendor/Farmer for Food Outlets
- Sealy Corporation – Hotel Mattresses/Boxsprings
- Gang of Three, Inc. – Consulting Firm for Labor Optimization

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by IOC Waterloo. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri, Marquette, Inc. d/b/a Lady Luck Casino Marquette (LLCM). Don Oster, General Manager, presented a contract with CDW Direct for the purchase of network and computer equipment for an IGT ABS Slot System Upgrade.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by LLCM. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, presented a contract with Ainsworth Gaming Technology for the purchase of ten slot machines.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by DJ. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, submitted a contract with Anthem Blue Cross Blue Shield for employee medical and dental insurance premiums.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by DJW. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino (RCC). Mo Hyder, General Manager, presented the following contracts for Commission approval:

- Quick Fix Auto, L.L.C. – Purchase of Real Estate
- QC Equity Investments, L.L.C. – Purchase of Real Estate

Mr. Hyder advised infrastructure work on the land-based facility has started; sanitary and sewer lines have been extended, and they hope to start grading on the site in 45 days, weather permitting. He stated the design work is progressing, and hope to begin the bidding process in the next couple of months.

Chair Lamberti asked if there is an estimated completion date at this time. Mr. Hyder stated that construction takes approximately 12 months from the time the footings are poured. Chair Lamberti asked if the two contracts before the Commission represent all of the land that needs to be acquired. Mr. Hyder indicated that was correct at this time.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by RCC. Commissioner Mertz seconded the motion, which carried unanimously.

Mr. Hyder introduced Randy Rathje, the new incoming President and Chief Executive Office for the Riverboat Development Authority.

Chair Lamberti called on Riverside Casino & Golf Resort, LLC d/b/a Riverside Casino & Golf Resort (RCGR). Dan Franz, General Manager, presented the following contracts for Commission approval:

- Acushnet – Titleist Company – Golf Retail and Special Orders for Blue Top Ridge
- Bakemark USA, LLC – Bakery Supplies and Goods
- Kidder Benefits Consultants/Nationwide Investments – 401K Plan Consultant/Custodian
- Konami Gaming, LLC – Annual Support – Casino Accounting System; Leases
- Neesvig's Inc. – Specialty Food Purchases
- Sonifi Solutions, Inc. – FTG Programming and/or iTV Programming and Services
- Sysco Food Services of Iowa – Food Purchases
- U.S. Foods – Food Purchases

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by RCGR. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Clinton, LLC d/b/a Wild Rose Clinton (WRC). Travis Dvorak, General Manager, presented the following contracts for Commission approval:

- Aristocrat – Purchase 10 New Machines
- Bally Technologies – Purchase 10 New Machines
- Konami Gaming, Inc. – Purchase 10 New Machines

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by WRC. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Emmetsburg, LLC d/b/a Wild Rose Emmetsburg (WR Emmetsburg). Tom Timmons, Vice President of Operations for Wild Rose Entertainment, presented a contract with Konami for the purchase of slot machines and equipment.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by WR Emmetsburg. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Jefferson, L.L.C. d/b/a Wild Rose Jefferson (WR Jefferson). Mr. Timmons presented an Amended and Restated Ground Lease Agreement between Wild Rose Jefferson, L.L.C. and Jefferson Hotel Group, L.L.C. He noted Jefferson Hotel Group secured the necessary financing for the project, and requested changes to the agreement. He

advised construction is anticipated to commence on February 1st, and be completed by August 1st.

Chair Lamberti asked the anticipated opening date for the casino. Mr. Timmons indicated that would also be August 1st. He advised the roof has been finished, the front is sealed off, and floors are being poured.

Mr. Timmons also presented the following contracts for Commission approval:

- Data Business Equipment (DBE) – Cash Counting Machines
- Bally – Slot Machines (Purchase and Lease)
- Konami Gaming, Inc. – Slot Machines (Purchase and Lease)
- Aristocrat – Slot Machines and System Software
- AGS – Slot Machines and System Software
- Edge Commercial, LLC – General Contractor for Jefferson Project
- Cummins Allison – Money Handling Equipment for Cage and Count Rooms
- GTECH – Slot Machines and System Software
- IGT – Slot Machines and System Software
- Multimedia Games – Slot Machines and System Software
- SHFL – Slot Machines and System Software
- WMS, Scientific Games Corp. – Slot Machines and System Software

Hearing no further comments or questions concerning the Ground Lease Agreement or the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the Amended and Restated Ground Lease Agreement and the contracts as submitted by WR Jefferson. Commissioner Kramer seconded the motion, which carried unanimously.

Mr. Timmons introduced Mike Couch, the general manager for the Jefferson facility. He noted that Mr. Couch previously worked at the Emmetsburg property in 2006.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (HRHCSC). Todd Moyer, General Manager, presented the following contracts for Commission approval:

1. AON Risk Services, Inc. – Insurance
2. Ainsworth Game Technology – Slot Machines
3. Avery Outdoor – Billboard Advertising
4. Braungers Food – Food Supplier
5. Grainger – Janitorial and Other Business Supplies
6. Nelson Property Management – Exterior Building Maintenance and Upkeep, including Snow Removal, etc.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by HRHCSC. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on the Dubuque Racing Association LTD d/b/a Mystique Casino (Mystique). Tom Wiedmayer, General Manager, presented a contract with North Country Business for the point of sales migration.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by Mystique. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Harveys Iowa Management Co., Inc. d/b/a Harrah's Council Bluffs Casino Hotel (Harrah's). Janae Sternberg, Director of Finance, presented the following contracts for Commission approval:

- Scavuzzo's – Food Supplier
- Adv. Audio Visual d/b/a CCS Presentation – Audio/Video Equipment for Property

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Harrah's. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Iowa West Racing Association d/b/a Horseshoe Casino-Bluffs Run Greyhound Park. Tina Eick, legal counsel, was present to address the issue of the reimbursement of the overpayment of the purse supplement for 2014. Ms. Sternberg presented a contract with Scavuzzo's, a food supplier, for Commission approval.

Chair Lamberti stated it was his understanding that all parties were in agreement with regard to the overpayment issue. Jim Quilty, legal counsel for the Iowa Greyhound Association (IGA), indicated that was correct.

Hearing no comments or questions concerning the reimbursement of the overpayment of the purse supplement or the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the reimbursement of the overpaid purse supplements from the escrow fund and the contract as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on the IGA, noting there was a request regarding the escrow fund and some contracts. He indicated the Commission would handle the Application for Use of the Escrow Fund separate from the contracts. Mr. Quilty advised co-counsel, Nick Mauro, and IGA President, Bob Hardison, were also present. Mr. Quilty stated he had conferred with Ms. Eick, and they have agreed to defer this matter until the March meeting.

Chair Lamberti stated the matter would be heard at the March meeting, but would like to receive written proposals from the two parties, IWRA and IGA, by February 19th. He noted the Commission has received input from other interested parties in terms of what they believe the Commission should do with the escrow fund. Chair Lamberti stated anyone was welcome to submit their thoughts/ideas on how the escrow fund should be utilized, and should also do so by February 19th.

Chair Lamberti noted the IGA is relying pretty heavily on the receipt of the escrow funds with respect to the proposed opening and operation of the track in Dubuque. He advised the Commission has some concerns, based on the decision regarding the escrow fund, about how the IGA plans to finance those operations. He indicated the Commission would like to see some thought given to an alternative financing plan.

Chair Lamberti moved to the contracts. Mr. Quilty submitted the following contracts for Commission approval:

- Dubuque Racing Association - Services Contract for Track and Facility Maintenance, Utilities, Security, EMT, etc.
- Earlham Savings Bank – Letter of Credit to Fund Start-up and First Month of Operation
- Dubuque Racing Association – IGA’s Lease of the Pari-Mutuel and Offices within Mystique Casino
- City of Dubuque – IGA’s Lease of the Racing and Kennel Compound Adjacent/Connected to the Mystique Casino
- Goldfinch Entertainment, LLC – Consulting Services Regarding Start-up and Operations of Live and Simulcast Wagering
- Mediacom – Consulting Services Regarding Start-up and Operations of Live and Simulcast Wagering

Mr. Quilty advised the Goldfinch Entertainment services contract is a one-year contract, not a five-year contract. He stated the contract will expire on December 31, 2015.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted and amended. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the next agenda item, a Petition for a Declaratory Order, filed by the Iowa Thoroughbred Breeders and Owners Association (ITBOA), regarding the proper calculation of “net purse moneys” as set out in Iowa Code 99D.22(1)c. He advised the Commission would hear from the petitioner first, for approximately 10 minutes; and then would hear from the intervening party, also for 10 minutes, followed by a brief rebuttal period for the petitioner. Chair Lamberti stated upon receiving all of the information, the Commission will render a decision. He called on the ITBOA.

Gary Dickey, legal counsel for the ITBOA, stated they are asking the Commission to enter a declaratory order clarifying the methodology of calculating the Iowa-bred supplements set out in

Iowa Code Section 99D.22(1)c. He advised the ITBOA and the intervener agree on what the code requires except for the actual accounting calculation. The code states that no less than 20% of net purse moneys shall be designated for an Iowa-bred supplement to pay for breeders' awards. The use of the words "net purse moneys" implies there is a gross purse moneys, with deductions removed, and then take 20% of that amount for a set-aside for Iowa-bred awards. Mr. Dickey stated he thought the parties agreed on what the gross purse money would be – advanced deposit wagering, gambling revenues and actual betting revenues. The only deductions set forth in the code or administrative rules for thoroughbreds, which receive 76% of gross revenue, are a 10% deduction that is sent to a designated organization for promotion and marketing of thoroughbreds. There are no other deductions or set-aside identified in the rule. Mr. Dickey stated that is what the ITBOA feels is the net purse money. He advised it is the ITBOA's position that 20% of the net purse moneys should be set aside for the Iowa-bred supplements. They feel it is clear in the text, and the intent behind the 2011 amendment.

Mr. Dickey stated the manner in which the 20% has been calculated by Prairie Meadows Racetrack & Casino is instead of taking 20% of the net purse; they are dividing the net purse by 120%, so the effect is that 86.67% is retained for open races, and 16.67% is set aside for the supplement. As that has been the practice for the past couple of years, the ITBOA is not receiving the 20% supplement that was intended by the law. Mr. Dickey stated the calculation process is significant; in 2014 the difference between the 20% and 16.67% was approximately \$460,000. He stated the ITBOA's interpretation is consistent with the law for two reasons. The first being the plain text implies that 20% of the net purse moneys go to the supplement and the other 80% is retained for open races. He expressed their opinion that any reasonable user of the English language would follow their methodology. Mr. Dickey stated he is not aware of any other area in the law or accounting practice where it is appropriate to divide by 120% to arrive at a calculation. Secondly, the ITBOA's methodology would be consistent with the legislative intent, and as set forth in the 2011 amendments; the purpose of the amendment was to enhance and foster the growth of the horse breeding industry in Iowa. He believes the Legislature made it clear with the amendment of Chapter 99D in 2011 that they wanted more Iowa growth in the horse economy, not less. Mr. Dickey stated the ITBOA is asking the Commission to clarify by order the calculation; that PMR&C is not to divide by 120%, simply multiply by 20%. He stated the ITBOA is not asking the Commission to make the order retroactive, or make it effective for the 2015 race season, but are willing to have it take effect January 1, 2016.

Chair Lamberti stated it was his understanding that the calculation being used has been pretty consistent for many years. He questioned why the ITBOA is before the Commission at this time seeking a change, noting the legislative change in 2012; what prompted this action at this time. Mr. Dickey stated he would let the interveners provide the history. It is his understanding the agreement the interveners refer to is the "Rasmussen Rule", which is where the methodology for dividing by 120% originated.

Mr. Dickey stated that from the ITBOA's perspective, there has never been an acquiescence to that methodology, and have continued to question the percentage and why they weren't receiving the full 20% for several years. After failing to receive a satisfactory response, the ITBOA decided to file the Petition for a Declaratory Order to resolve the matter.

Chair Lamberti called on the Iowa Horsemen's Benevolent and Protective Association (IHBPA). Tom Levis, legal counsel, stated the IHBPA represents all of the thoroughbreds in Iowa. He advised the IHBPA has 1,200 members, with one-third of those also belonging to the ITBOA. It is the IHBPA's belief that objecting to the ITBOA's position is consistent with Iowa law, important to all thoroughbred interests in Iowa, and important to racing in Iowa.

Mr. Levis stated the formula for calculating the supplement for the Iowa-breds has been in existence for approximately 25 years. He advised the formula is called the "Rasmussen formula" because it was developed by Jim Rasmussen representing PMR&C, Dick Clark representing the IHBPA, and Gary Lucas representing the ITBOA. Mr. Levis stated it was their intent to have a sum of money set aside to give a financial leg up to the Iowa-bred horses. He noted that 2010 was a contentious year among the horse breeders; there was controversy over the contracts, when and who was going to race, etc. After lengthy negotiations between all the parties, everyone agreed they did not want to go through that process again, and approached the legislature to get some of the agreements codified in 2011. The IHBPA decided to codify the supplement as a means of protecting the ITBOA; the language used in Iowa Code 99D.22 is the language they felt was consistent with the Rasmussen formula. Mr. Levis stated no one present would state it was their intent in 2011 to move away from the Rasmussen formula; the purpose of codifying the supplement was to protect the interests of the ITBOA. Mr. Levis stated the IHBPA thinks it is bad for the industry and horse racing to use any calculation other than the Rasmussen formula. Mr. Levis noted that Mr. Dickey used the term "net purse money", he stated it is not really 20% of the net purse money; it is 20% of the net purse moneys distributed to the winners. He indicated the only way to calculate the supplement is divide the revenue by 120% after determining what the value of the purses are that are being distributed. Mr. Levis pointed out that of the 11% statutorily required to go to purses the thoroughbreds receive 76%, the quarter horses receive 15.25% and the Standardbreds receive 8.75%. Using the Rasmussen formula, the purse supplement is approximately \$2.3 million and the purses are \$11.7 million. Using the ITBOA formula, the supplements would be \$2.8 million and the purses would be \$11.2 million. The difference between the two calculations is \$468,000. Mr. Levis stated that if the Commission adopts the ITBOA's position, the supplements would increase by approximately \$500,000 but the purses would drop by a corresponding amount. Mr. Levis stated that if ITBOA members race and win, making them eligible for the supplement, they will receive a larger supplement but receive a lower purse. Mr. Levis stated the calculation is a wash for the ITBOA members; it does not do them any good. The ITBOA calculation would cause harm to the non-Iowa-bred horses, as they would receive approximately \$500,000 less in purse money. Mr. Levis pointed out that gambling revenue is decreasing which leads to a decrease in the purses, and decreasing the purses by another \$500,000 would be a dramatic decrease for the thoroughbreds racing at PMR&C. Mr. Levis stated the IHBPA needs to look out for the interests of all thoroughbred owners and the racing industry in Iowa.

Mr. Levis called on Brian Wessels, Chief Financial Officer at PMR&C, who addressed how PMR&C is calculating the purse supplement. Mr. Wessels distributed a handout. The first sheet depicts the traditional calculation; and the other document distributed is the ancillary purse agreements negotiated with the horsemen for the race meets in 2004, 2005, 2006, 2007, 2008, 2009, and 2010 through 2014. Mr. Wessels stated the calculation has not changed significantly

since 2008. Using 2004 as an example, total purses were \$15 million, which was divided by 1.2% to arrive at the net purse amount of \$12.5 million, and the supplement was 20% of the net purse amount, or \$2.5 million. He noted during the years set out above PMR&C had two meets – a thoroughbred and a mixed meet. Mr. Wessels stated that beginning with the 2006 agreement, PMR&C started setting out how they calculated the net purse amount. The supplement was paid to Iowa-breds placing in first through fourth place, but was capped at a maximum of \$50,000. He stated that during the period of 2010 through 2014, it is PMR&C's belief that the formula they have been using was codified by the legislature. Mr. Wessels stated they have consistently applied the formula from when it was contained in the ancillary agreements to when it was applied to the Code. He indicated the parties agree on the calculations at the top of the page for purse amounts for 2014 which are based on the adjusted gross receipts for 2013, which is gaming revenue. Mr. Wessels described how PMR&C reaches the amount for the total annual purses, which will be \$19,088, 397 for 2014. That amount is then divided as a percentage to each of the breeds. He noted administration and marketing are allocated 290,144, or 2% of the total annual purses. The Code does not define net purses; PMR&C's definition is purses paid at the track for both Iowa and non-Iowa horses entered in the race. The supplement is a bonus to Iowa-bred horses finishing in the first four places. Mr. Wessels stated that to calculate net purses, PMR&C takes the total annual purse, minus the administration and the supplement to reach net purses, which is then multiplied by 20% to reach the supplement amount.

Hearing no questions for Mr. Wessels, Mr. Levis called on Leroy Gessmann, President of the IBPHA, who stated slots arrived at PMR&C in 1995; and it was the following year when Messrs. Rasmussen, Clark and Lucas came up with the formula. With regard to the history of the legislation, Mr. Gessmann stated the various horsemen's groups would appear before the Commission with their disagreement as to what percent each breed would receive, the race days, and whether the Standardbreds should race at PMR&C. One year when the groups could not reach any consensus, Jack Ketterer, former Administrator of IRGC, told everyone how it was going to be. After that, the horsemen's group decided they needed to come up with a plan. Upon reaching an agreement, one of the final issues was getting the purse level and percentages set after determining Standardbreds would no longer race at PMR&C, and getting the 67 race days for thoroughbreds and 23 days for quarter horses codified. Mr. Gessmann stated the idea behind getting the 67 days codified was to make sure the status quo was maintained as the number of race days had been reduced in previous years. Mr. Gessmann advised that Deb Leech, from the ITBOA, suggested adding the manner in which the purse supplement was calculated to the law, and that was the intent. Mr. Gessmann stated that when everyone went to the Legislature and lobbied the Legislators, everyone indicated they were trying to maintain the status quo, they were not asking for additional percentages or additional days. They also asked to have the sunset clause removed.

As there were no questions for Mr. Gessmann, Chair Lamberti called on Mr. Dickey for the ITBOA's rebuttal comments. Mr. Dickey stated the ITBOA has a different view of the history of the supplement, and called on Sharon Vail, past President and current Secretary/Treasurer of the ITBOA. Ms. Vail indicated they are not trying to be vindictive; they just want the term "net purse moneys" clarified. She stated the Iowa members have questioned the leadership over the years as to why they are not receiving the 20%, and requested the leadership do something about

it. Ms. Vail noted that she has had meetings with Mr. Ohorilko and Mr. Ketterer on this issue. She concurred with the intent when the formula was crafted 25 years ago; however, there is a new generation, and things change. Ms. Vail stated the ITBOA has 500 Iowa members; out of that, 46% of the horses racing at PMR&C are Iowa-breds. It is the ITBOA's goal to take care of the Iowa people. Ms. Vail stated they are not asking for retroactive funds; they just want the term clarified so they can pass it on to their members.

Mr. Dickey stated that what is intended in the Code language is clear: it is the net purse moneys of the distribution set forth in Iowa Code 99D.5, which is the purse structure – 76% for the thoroughbreds, 15.25% for the quarter horses and 8.75% for the Standardbreds. It is not the net purse monies actually distributed by the formula at the track. That is not how the Code is worded.

With respect to the discussion about codifying the status quo, Mr. Dickey advised the ITBOA submitted Exhibit 1, which is a signed agreement by all of the leaders of the interest holders about what the legislation should like. The agreement states that 20% of the monies allocated should be distributed for the Iowa-bred supplement. Mr. Dickey stated the ITBOA was not a signatory to the agreement. He noted that this is a situation where the ITBOA had always said the supplement was calculated incorrectly; however, it was not an issue they wanted to litigate. Mr. Dickey stated the ITBOA is asking the Commission to intervene. Mr. Dickey also stated in terms of policy that it is relevant, the ITBOA feels their petition is good policy; if an Iowa-bred and a non-Iowa-bred horse run the same race and the Iowa-bred wins, under both situations the Iowa-bred horse would win more money which is consistent with legislative intent. He stated the clear language of the Code supports their interpretation and asked the Commission to adopt the Declaratory Order clarifying that 20% is the supplement, not 16.67%.

Hearing no questions for Mr. Dickey, Chair Lamberti indicated the Commission would consider the matter submitted, and requested a motion. Commissioner Kramer moved to go into Executive Session pursuant to, but not limited to, Iowa Code Sections 21.5(1)c and f for the purpose of discussing strategy with counsel and discussing the decision to be rendered in a case conducted according to the provisions of chapter 17A. Commissioner Heinrich seconded the motion, which carried unanimously on a roll call vote.

Following Executive Session and a brief recess, Chair Lamberti reconvened the meeting in open session, noting the Commission had gone into Executive Session to consider their decision regarding the Petition for Declaratory Order and the question presented was whether under Iowa Code Section 99D.22(3) is net purse money calculated by adding the gross purse money from (1) pari-mutuel wagering, (2) Advanced Deposit Wagering, and (3) gambling game revenues less the statutory distributions to organizations designated in sections 99D.7(5)(c)(2) and (3).

Chair Lamberti moved to answer the question presented in the Petition in the affirmative and stay the decision until November 1, 2015, and further direct legal counsel to prepare an order consistent with the motion. Commissioner Mertz seconded the motion. Chair Lamberti opened the floor for discussion.

Chair Lamberti stated the Commission believes it is a close question and that the statutory language is not as clear or well-written as everyone would like, and leaves a question regarding intent. He advised when the Commission looks to render a decision they must first review the statutory language; and regardless of history, he believes the language is not crafted in a manner that would support the historical determination of how the net purse money and supplements are determined. Chair Lamberti stated the weight of the evidence is that the Code as written is consistent with the Commission answering the question presented in the affirmative; however, by staying the decision until November 1, 2015 the parties will have an opportunity to appeal the decision and take whatever actions they feel are appropriate. Chair Lamberti stated he hoped all parties could agree to not take any action that would disrupt the 2015 meet, which he does not believe would be in anyone's best interests.

Chair Lamberti called for any further comments from Commission members. Hearing none, he called for the vote. The motion carried unanimously.

Chair Lamberti called on PMR&C. He stated the Commission would consider each item individually. Gary Palmer and Derron Heldt, General Manager and Director of Racing respectively, were present to address the agenda items.

With regard to the race dates for the 2015 meet, Chair Lamberti stated it was his understanding that an agreement had been reached. Before addressing the race dates, Mr. Palmer introduced Robert Myers, the new Chairman of the Board; noting he has served on PMR&C's board for five years.

With regard to the race dates, Mr. Palmer stated they have met with the IHBPA and come to an agreement; the parties have signed a five-year ancillary contract. Chair Lamberti asked if the agreement had been distributed to the Commission members. Mr. Ohorilko answered in the affirmative, but advised the calendar distributed was just for the thoroughbred meet. He advised the Commission also needs to approve the quarter horse race dates, but believes those to be unchanged from what was submitted in the license renewal.

Mr. Palmer advised the 45-day season approval contains a quarter horse meet race calendar. The submission before the Commission would replace the thoroughbred calendar in the 45-day season approval.

Chair Lamberti stated the motion would be to approve the race dates for the thoroughbred meet, and that the quarter horse race dates are included in the 45-day season approval. Mr. Ohorilko stated the Commission should approve the thoroughbred calendar as modified and submitted and the quarter horse dates as submitted with the renewal application.

Chair Lamberti moved to approve the thoroughbred calendar as submitted, as well as the quarter horse race dates as submitted with the license renewal application. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti advised that all of the particulars have not yet been determined, but the Commission intends to move up the decision making process with regard to race dates in the future. He noted it is a yearly occurrence with the situation coming close to the Commission having to impose dates, and then an agreement is reached. The current process is creating disruption for PMR&C and everyone involved. The race dates should be out well before this time.

Chair Lamberti moved to the 45-day plan. Hearing no comments or discussion concerning the plan, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the season approval as submitted contingent upon:

- The immediate written notification of any change in racing official positions.
- The completion of necessary IRGC licensing and DCI background checks of officials
- Providing staff with an updated racing calendars to correspond with the dates approved by the Commission.

Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contracts submitted by PMR&C. Mr. Palmer submitted the following contracts for Commission approval:

- Care Ambulance – Ambulance and Emergency Medical Services
- FTDGD (Maclyn) – Website Design and Development, Integrated Marketing (RP)
- Kone, Inc. – Elevator and Escalator Maintenance
- Martin Brothers Distributing – Food, Equipment and Supplies
- The Printer, Inc. – Printing Services
- True North Companies – Insurance Brokerage Services (RP)

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearing for Grand Falls Casino & Golf Resort, LLC d/b/a Grand Falls Casino & Golf Resort (GFCGR). Mr. Ohorilko advised staff and GFCGR have entered into a Stipulated Agreement regarding the violation of Iowa Code 99F.9(5), the underage gambling statute. He stated a minor entered the gaming floor on December 14th unchallenged, remained on the floor for 30 minutes and gambled. Those three criteria triggered the referral to the Commission. Mr. Ohorilko noted that GFCGR did self-report the incident and acknowledges the facts in the Stipulation. They have agreed to an administrative penalty of \$20,000, which is consistent with past precedent.

Sharon Haselhoff, General Manager, apologized for the incident, noting the facility takes underage gambling very seriously. She noted the facility did not ID the guest. She advised the facility has done a significant amount of retraining with their employees, reminding them of the

importance of their jobs. There are 127 employees in the security, table games and food and beverage areas. They have been retrained on ID checking and intox training since this incident.

Hearing no comments or questions concerning the Stipulated Agreement, Chair Lamberti moved to approve the Stipulated Agreement with an administrative penalty of \$20,000. Commissioner Kramer seconded the motion, which carried unanimously.

Ms. Haselhoff advised the facility has set the golf rates for 2015: weekday rates are \$55.00 and weekend rates will be \$65.00, which includes 18 holes of golf, the driving range and cart rental. She distributed an article that appeared in Golf Course Architecture regarding the course, the Kehl family and Rees Jones' golf course designs. Ms. Haselhoff stated they are anxious to get the golf course open.

As there was no Public Comment, Chair Lamberti moved to Administrative Business and the regulatory fees for the Iowa Greyhound Association and Dubuque Racing Association. Mr. Ohorilko stated the regulatory fees before the Commission are the result of the Iowa Greyhound Association license that was approved at the November meeting. The regulatory fees have been recalculated for the two entities impacted by the license. He advised the parties have been made aware of the fees, and staff has not received any feedback. Mr. Ohorilko requested approval of the modified regulatory fees.

Hearing no comments or questions concerning the regulatory fees, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the regulatory fees for the Iowa Greyhound Association and Dubuque Racing Association as presented. Commissioner Heinrich seconded the motion, which carried unanimously.

As there was no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Kramer so moved. Commissioner Heinrich seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK